

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 250

9:00 a.m.

September 19, 2018

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Mark Fagergren, Licensing and Education Director
Kadee Wright, Chief Investigator
Justin Barney, Hearing Officer
Chad Tengler, Real Estate Analyst
Judith Jensen, Assistant Attorney General
Paula Faerber, Assistant Attorney General
Amber Nielsen, Board Secretary
Jennica Gruver, Real Estate Education Coordinator
Van Kagie, Investigator
Mark Schaerrer, Investigator
Sarah Nicholson, Investigator
Chris Martindale, Investigator
Teresa Larsen, Investigator
Lacey Vawdrey, Division Staff
Connie Mickles, Division Staff
Sarah Thaler, Division Staff

COMMISSION MEMBERS PRESENT:

Cal Musselman, Chair
Lerron Little, Vice Chair
Lori Chapman, Commissioner
Russell Booth, Commissioner
Marie McClelland, Commissioner

PUBLIC MEMBERS PRESENT:

Kreg Wagner	Shane Norris
Heather Swanger	Dan Naylor
David Galvan	Jax Pettey
Kevin Swenson	Patricia Geary Glenn
Tony McDonough	

The September 19, 2018 meeting of the Utah Real Estate Commission began at 9:01 a.m. with Chair Musselman conducting. Commissioner Booth was excused from today's meeting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – A motion was made and seconded to approve the minutes from the August 15, 2018 meeting of the Commission as written. Vote: Chair Musselman, yes; Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner McClelland, yes. The motion was approved.

PUBLIC COMMENT

Jax Pettey had requested time to discuss the Seller Financing Addendum, but was not present at this time. The Commission will revisit this when Mr. Pettey arrives.

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart discussed some legislative options for a bill sponsor now that Gage Froerer is leaving. The Division is trying to identify a legislator. Director Stewart mentioned some possible options for sponsors who are running for office including Curt Cullimore and Chair Musselman. He mentioned the problem with new legislators would be the late timing in presenting the bill. He contacted current legislators to open the bill file. Dan Hemmert may open the bill file and may transfer the file to another legislator.

Director Stewart discussed the RAP Back adoption for all agents. The desire is to make this as convenient as possible. The Division contacted the testing provider and they seemed cooperative. The Division also met with the Bureau of Criminal Investigations and received more news on the availability of machines in the and around the State. The Division is also looking into possibly purchasing a machine. He said fingerprint background check fees would be bundled into the renewal and would be paid to the Division at that time of renewal.

Director Stewart reported that since he last mentioned the Division's PSA, the PSA changed to discuss the stories about wire fraud. The new script was sent to the focus group and will be sent to the Commissioners once finalized. The PSA will warn potential buyers before wiring money. The Commission stated this seemed like a timely message.

PUBLIC COMMENT

Jax Pettey arrived and discussed some changes he would like to see on the Seller Financing Addendum. He presented some issues that have been problems with attorneys and with title companies. There was discussion on the issue and some of the actions that could be taken. There was discussion of going to a qualified lender.

ENFORCEMENT REPORT – Kadee Wright

Ms. Wright reported month of August the Division received 25 complaints; opened 5 cases; closed 14 cases; leaving 426 open cases. There are 12 cases assigned to the AG's office.

Ms. Wright presented the following for consideration:

Stipulations for Review

Ryan D Dastrup
David A Galvin
Terence G Richins
David K Storrer

Ms. Jensen of the AG's office presented the following for consideration:

Stipulation for Review

Brandon J Stanger

There were not copies of the Kyle Ashworth stipulation; that stipulation will be presented later in the meeting.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren discussed the licensing statistics for the month of August.

Mr. Fagergren announced that the annual Instructor Development Workshop will be held on October 9 and 10. The registration for that class is now open.

COMMISSION AND INDUSTRY ISSUES

The Commission discussed adding a required continuing education course which would be required each renewal. Vice Chair Little stated that he supports try to increase professionalism but wonders if adding a specific class really will change professionalism and inform the industry members. There was some discussion on the merits of the class. The Commission discussed creating a task force or committee to work through the logistics. Vice Chair Little, Kreg Wagner, and Dan Naylor said they would be on the committee and figure out logistics.

Ms. Wright presented the following for consideration:

Stipulations for Review

Kyle Ashworth

Mr. Barney stated the language regarding the Real Estate School administrative

rules and some language regarding cease and desists are not ready in their entirety at this time. He will present that language at a later date. He will email the draft language to the Commission as soon as it is available.

Mr. Barney mentioned the proposed rule which was approved last month was made effective August 21. This rule change included the owner exemption and broker experience requirements.

Mr. Fagergren noted the Division has had a staff change. We have a new receptionist at the front desk. Amy Goodlett she had some real estate experience in Tennessee and ran a title office. She has been with the Division for less than a month and the Division is very happy to have her.

A motion was made and seconded to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair Musselman, yes; Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner McClelland, yes. The motion was approved.

A brief recess was held from 10:09 a.m. to 10:14 a.m.

CLOSED TO PUBLIC

An Executive Session was held from 10:14 a.m. to 10:43 a.m.

OPEN TO PUBLIC

A brief recess was held from 10:43 a.m. to 10:50 a.m.

Results of Executive Session

Ryan D Dastrup – Approved with Division Concurrence

David A Galvin – Approved with Division Concurrence

Terence G Richins – Approved with Division Concurrence

David K Storrer – Approved with Division Concurrence

Brandon J Stanger – Approved with Division Concurrence

Kyle Ashworth – Approved with Division Concurrence

The Matter of the License of Kyle Ashworth was resolved by stipulation of the parties and the Informal Hearing was not held.

The meeting continued at 10:52 a.m. for the Informal Hearing in the Matter of the Application of Martha West to Act as a Sales Agent with Chair Musselman conducting. Ms. West did not appear. She was represented by her attorney, Patricia Geary Glenn.

INFORMAL HEARING

10:52 a.m. Patricia Geary Glenn, Counsel for Respondent
Chad Tengler, Counsel for Division

The hearing for Ms. West concluded at 12:01 p.m.

A brief recess was held from 12:01 p.m. to 12:09 p.m.

The meeting continued at 12:09 p.m. for the Informal Hearing in the Matter of the License of Tony McDonough with Chair Musselman conducting.

INFORMAL HEARING

12:09 p.m. Tony McDonough, Respondent
Chad Tengler, Counsel for Division

Mr. Tengler presented a Stipulation of Facts to the Commission for consideration in this matter.

The hearing for Mr. McDonough concluded at 12:43 p.m.

A motion was made to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair Musselman, yes; Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner McClelland, yes. The motion was approved.

CLOSED TO PUBLIC

An Executive Session was held from 12:43 p.m. to 1:06 p.m.

OPEN TO PUBLIC

Results of Executive Session

Tony McDonough, Stipulation of Facts – Approved with Division Concurrence

Ms. West and Mr. McDonough will be notified by mail of the Commission's decision.

Vice Chair Little briefly mentioned the Seller Financing Addendum discussion Mr. Pettey brought before the Commission. The Commission would like to continue to discuss the matter in a future meeting.

A motion was made and seconded to adjourn the meeting. Vote: Chair Musselman, yes; Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner McClelland, yes. The motion was approved. The meeting adjourned at 1:08 p.m.